

SIGNED this 22nd day of August, 1974.

SIAKA STEVENS
President.

LS

Act 12/1974

No. 6



1974

Sierra Leone

The Constitution (Amendment) Act, 1974

Short title.

[29th August, 1974.] Date of commencement.

BE IT ENACTED by the President and Members of Parliament in this present Parliament assembled, as follows:—

- Subsection (1) of section 20 of the Constitution is hereby repealed and replaced by the following new subsection—
- Repeal and replacement of subsection (1) of section 20 of Act No. 6 of 1971.

“(1) Members of Parliament shall embody the following—

- (a) one member for each District who shall, subject to the provisions of this Constitution, be elected in such manner as may be prescribed by or under any law from among the persons who, under any law, are for the time being Paramount Chiefs; and
- (b) such number of other members as Parliament may prescribe who, subject as aforesaid, shall be elected in such manner as may be prescribed by or under any law:

Provided that—

- (i) the number of members to be elected in pursuance of paragraph (a) and the number of members to be elected in pursuance of paragraph (b) shall not together be less than sixty; and
 - (ii) no alteration in the number of Districts shall affect the composition of Parliament until the next dissolution of Parliament after such alteration; and
- (c) such other members not exceeding three as may be appointed by the President by Instrument under the Public Seal and such members shall be entitled to sit and to speak and vote on any matter before Parliament.”.

Repeal and replacement of section 21 of Act No. 6 of 1971.

2. Section 21 of the principal Act is hereby repealed and replaced by the following new section—

“Qualifications for membership of Parliament.

21. (1) Subject to the provisions of section 22 any person who—

- (a) has attained the age of twenty-five years; and
- (b) is a citizen of Sierra Leone (otherwise than by naturalization) whose father and father’s father are or were persons of Negro African descent; and

Act No. 44
of 1961.

(c) is an elector whose name is on a register of electors under the Franchise and Electoral Registration Act, 1961 or any Act of Parliament amending or replacing that Act; and

(d) is able to speak, and unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of Parliament.

shall be qualified for election as such a member of Parliament as is referred to in paragraph (b) of subsection (1) of section 20, and any such person who, under any law, is for the time being a Paramount Chief shall be qualified for election as such a member of Parliament as is referred to in paragraph (a) of that subsection, and no other person shall be qualified to be so elected:

Provided that a person who becomes a citizen of Sierra Leone by registration by law shall not be qualified for election as such a member of Parliament or of any Local Authority unless he shall have resided continuously in Sierra Leone for twenty-five years after such registration or shall have served in the Civil or Regular Armed Services of Sierra Leone for a continuous period of twenty-five years.

(2) For the purposes of this section the expression "person of negro African descent" means a person whose father and father's father are or were negroes of African origin.

(3) Subject to section 22 any person who is qualified under paragraphs (a), (b), (c) and (d) of subsection (1) shall be eligible for appointment to Parliament."

3. Section 22 of the principal Act is hereby repealed and replaced by the following new section—

"Disqualifications for membership of Parliament.

22. (1) No person shall be qualified for election or appointment as a member of Parliament—

(a) if he is a citizen of a country other than Sierra Leone having become such a citizen voluntarily or is under a declaration of allegiance to such a country; or

Repeal and replacement of section 22 of Act No. 6 of 1971.

- (b) if he is a member of any commission established under this Constitution, a public officer or a member of the armed forces of the Government or has been such member or officer within twelve months prior to the date on which he seeks to be elected; or
- (c) if he holds the office of Speaker; or
- (d) if being a person possessed of professional qualifications, he is disqualified (otherwise than at his own request) from practising his profession in Sierra Leone by order of any competent authority made in respect of him personally within the immediately preceding five years of an appointment in pursuance of paragraph (c) of subsection (1) of section 20 or any election held under sections 29 and 48;
- (e) if under any law in force in Sierra Leone he is adjudged to be a lunatic or otherwise declared to be of unsound mind; or
- (f) if he is under a sentence of death imposed on him by any court or a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court or substituted by a competent authority for some other sentence imposed on him by a court; or
- (g) if within five years prior to the date on which he seeks to be elected or he is appointed he has been sentenced to imprisonment for a period exceeding twelve months for an offence which involves dishonesty and has not been granted a pardon; or
- (h) if, in the case of the election of such a member as is referred to in paragraph (b) of subsection (1) of section 20, he is for the time being Paramount Chief under any law.

(2) Parliament may provide that a person shall not be qualified for election or appointment to Parliament for such period (not exceeding five years) as may be prescribed by Parliament if he is convicted by any court for such offence connected with the election of members of Parliament as may be so prescribed.

(3) Parliament may provide that any person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to Parliament or the compilation of any register of voters for the purposes of such an election shall not be qualified for election or appointment to Parliament.

(4) Parliament may provide that a person disqualified under paragraph (f) or (g) of subsection (1) by reason of his being under sentence of imprisonment exceeding twelve months for any such offence (being an offence that appears to Parliament to involve dishonesty) as may be prescribed by Parliament or by reason of his being under sentence of imprisonment that includes such a sentence for any such offence shall not be qualified for election or appointment as a member of Parliament for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be so prescribed.

(5) For the purposes of paragraphs (f) and (g) of subsection (1) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceed twelve months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(6) A person shall not be disqualified for election or appointment as a member of Parliament under paragraph (b) of subsection (1) by reason only that he holds the office of Prime Minister, Minister, Deputy Minister, Chief, Member of a Chiefdom Council, Member of a Local Court or member of any body corporate established by or under any of the following laws, that is to say, the Freetown Municipality Act, the Chiefdom Councils Act, the Rural Area Act, the District Councils Act, the Sherbro Urban District Council Act, the Bo Town Council Act, and the Townships Act or any law amending or replacing any of those laws.

Act No. 20 o.
1973
Cap. 61
Cap. 75
Cap. 79
Cap. 76
Cap. 80
Cap. 295.

(7) Save as otherwise provided by Parliament, a person shall not be disqualified from being a member of Parliament by reason only that he holds office as a member of a Statutory Corporation.

(8) Notwithstanding the provisions of paragraph (b) of subsection (1) a person mentioned in that paragraph shall not be disqualified from being a member

of Parliament if he is appointed as such by the President under paragraph (c) of subsection (1) of section 20.”

Repeal and
replacement
of section 26
of Act No. 6
of 1971.

4. Section 26 of the principal Act is hereby repealed and replaced by the following new section—

“Tenure of seats of members of Parliament—
26. (1) A member of Parliament shall vacate his seat—

- (a) if he is elected as Speaker; or
- (b) if any other circumstances arise that if he were not a member of Parliament would cause him to be disqualified for election or appointment as such under section 22 or any law enacted in accordance with subsection (2) or (3) of that section; or
- (c) if he ceases to be a citizen of Sierra Leone; or
- (d) if he is absent from sittings of Parliament, for such period and in such circumstances as may be prescribed in the rules of procedure of Parliament; or
- (e) if, in the case of such a member as is referred to in paragraph (b) of subsection (1) of section 20, he becomes a Paramount Chief under any law; or
- (f) if, in the case of such a member as is referred to in paragraph (a) of subsection (1) of section 20, he ceases to be a Paramount Chief under any law; or
- (g) if, in the case of such a member as is referred to in paragraph (b) of subsection (1) of section 20, he ceases to be qualified under any law to be registered as an elector for election to Parliament of the members referred to in that paragraph; or
- (h) if, in the case of a member referred to in subsection (1) of section 20, he is adjudged to be a lunatic or declared to be of unsound mind or sentenced to death; or

(i) if, in the case of a member appointed by the President under paragraph (c) of subsection (1) of section 20, his appointment is suspended or revoked by the President or if he ceases to be a member on the dissolution of Parliament; or

(j) if, being a member appointed under paragraph (c) of subsection (1) of section 20 he resigns his appointment.

(2) Parliament may, in order to permit any member of Parliament who has been adjudged to be a lunatic, declared to be of unsound mind or sentenced to death or imprisonment, to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed, the decision shall not have effect until such time as may be prescribed.”.

5. Section 29 of the principal Act is hereby repealed and replaced by the following new section—

Repeal and replacement of section 29 of Act No. 6 of 1971.

“Filling of vacancies.

29. (1) When the seat of any member of Parliament becomes vacant, the vacancy shall be filled by election in accordance with the provisions of law relating to such election or if the vacant seat is that of an appointed member, by the President under the provisions of paragraph (c) of subsection (1) of section 20:

Provided that in the case of the seat of an elected member if Parliament is dissolved before such election is due to be held, the vacancy shall be filled at the general election.

(2) The Proclamation appointing a date for the holding of an election to fill a vacancy shall be published in the *Gazette* not less than twenty-one days before the date appointed for holding the election.”.

6. Section 52 of the principal Act is hereby amended by the addition immediately after subsection (4) of the following new proviso—

Amendment of section 52 of Act No. 6 of 1971.

“Provided that a Minister of State or Deputy Minister who is a Member of Parliament appointed under paragraph (c) of subsection (1) of section 20 or a Minister of State or Deputy Minister who is a member of a Statutory Corporation may at the discretion of the President continue to hold such other office of profit or emolument.”.

Repeal and replacement of section 56 of Act No. 6 of 1971.

7. Section 56 of the principal Act is hereby repealed and replaced by the following new section—

“Exercise of President’s powers.

56. (1) In the exercise of his functions the President may act in accordance with the advice of the Cabinet or a Minister acting under general authority of the Cabinet except in cases where by this Constitution or any other law he is required to act in accordance with the advice of any person or authority other than the Cabinet:

Provided that the President shall act in accordance with his own deliberate judgment in the performance of the following functions—

- (a) in the exercise of the powers relating to the dissolution of Parliament conferred upon him by the proviso to subsection (4) of section 46;
- (b) in the exercise of the power to appoint the Vice-President conferred upon him by subsection (2) or (5) of section 50;
- (c) in the exercise of the powers conferred upon him by section 55 (which relates to the performance of the functions of the Vice-President during absence or illness) in the circumstances described in the proviso to subsection (2) of that section;
- (d) in the exercise of the powers conferred upon him by paragraph (c) of subsection (1) of section 20 to appoint members to Parliament; and
- (e) in signifying his approval for the purposes of section 83 of an appointment to an office on his personal staff.

(2) Where by this Constitution the President is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with such advice shall not be enquired into in any court.

(3) The reference in subsection (1) to the functions of the President shall be construed as a reference to his powers and duties in the exercise of the executive authority of Sierra Leone and to any other powers and duties conferred or imposed on him as President by or under this Constitution or any other law.”

Passed in Parliament this 6th day of August, in the year of our Lord one thousand nine hundred and seventy-four.

M. MUNU
Acting Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

M. MUNU
Acting Clerk of Parliament.

Act 12/1978